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LAW REPORTS*.

IX. English Reports.

Anstruther reports the judgments of Eyre, C. B., Forrest and Wightwick of Macdonald, C. B., Price of Thompson, Richards and Alexander who were successively Chief Barons. Reports of McCleland (1824), McCleland and Younge (1825), Younge and Jervis (1826-1830) and Crompton and Jervis contain decisions of Alexander, C. B. Anstruther's reports have been pronounced to be very slight authority. It is surmised that it may be due to the feebleness of the Judges that presided over the Court at the time rather than to any deficiency in the reporter. Four of the Barons, Barons Graham, Hobart, Thomson and Wood used to be facetiously called four boxes, chatter-box, snuff-box, band-box and tinder-box. In fact, during this period, the Exchequer Court had very little reputation and in consequence work had gravitated largely to the King's Bench. It was only when Lord Lyndhurst went to the Exchequer Court and Bayley and Parke became Barons its reputation rose. Lyndhurst succeeded Lord Eldon as Chancellor in 1827 and continued such till 1830. In 1831 he became Chief Baron—a step down with no precedent. Though a man of great ability, he had no legal ambition and would not bestow any attention on legal studies. He relied on Bayley who came from King's Bench and had a reputation for being a learned and laborious lawyer. The one important judgment to his credit while Chief Baron is *Small* v. *Attwood*. His judgments as Chief Baron begin with 2 Crompton and Jervis and continue through Crompton and Meeson (1832-1834), and Crompton, Meeson and Roscoe (1835) when he became Chancellor again and

*The ninth of a series of lectures arranged by the University of Madras delivered by Mr. B. Sitarama Rao, Vakil, High Court.

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his place was taken by Abinger, whose judgments will be found reported in the remaining volumes of Crompton, Meeson and Roscoe and in the first eleven volumes of Meeson and Welsby. Pollock succeeded Abinger and continued Chief Baron right up to the period of the Law Reports. Both Abinger and Pollock were great lawyers but the most dominating personality during the period in the Exchequer Court was undoubtedly Parke, B. The further series dealing with the Exchequer Court are Exchequer Reports (1847-1856), Welsby, Hurlston and Gordon (1847-1856), Hurlston and Norman, and Hurlston and Coltman. The other distinguished Judges are Alderson, B., Rolfe, B., Martin, B., and finally Bramwell B. who became Lord Bramwell. Rolfe B. as Truro became Lord Chancellor. Martin, B. was the son-in-law of Pollock, C. B. and that circumstance helped him immensely while at the bar. Pollock was supposed to show his partiality in an obvious manner. Martin, B., though not a great lawyer, was a sound Judge. According to Lord Campbell, though he was not good at English composition his written judgments somehow read well.

Baron Bramwell's is a very familiar name to lawyers. He took the place of Baron Parke.He was a very successful lawyer. A successful lawyer does not always make a good Judge. For instance, Lord Abinger, unmatched as an advocate, made an indifferent Judge, so also Lord Lyndhurst. On the other hand, Blackburn on whose appointment in 1859 *The Times* asked —Who is Mr. Blackburn ?—made an excellent Judge. Baron Bramwell made a good Judge and an extremely good one at that. He was a great Common Law lawyer and made no secret of it or of his ignorance of equity and possibly of a certain amount of contempt for it. Nevertheless, he was fully alive to the defects of Common Law and its procedure and he was one of those who was responsible for the Judicature Act. With Blackburn and Coleridge he sat in the Judicature Commission. He became Lord Justice of Appeal in 1876 and administered the new Acts fusing law and equity. It was, however, as a Judge of the first instance that Lord Bramwell's gifts were at their best, because there the penetration, the logical directness, the high initial velocity of his intellect, his workmanlike knack of mastering facts, assaying and applying law appeared to the best advantage. As a Judge of the Appellate Court, he appeared to disadvantage when compared with Bowen or Selborne with their subtle and impressive attributes which make great Judges of Appeal.

But his admirable skill in simplifying the questions at issue and clearing the ground were of the greatest assistance even in the Court of Appeal. ' It is said of him that as a Judge he was always learning. Capacity to adapt oneself to the changed circumstances is a rare capacity and Lord Bramwell had it in full abundance and evinced it till the last day of his life.

Tyrwhitt (1830-1835), Tyrwhitt and Granger (1836), Gale (1835-1836), Murphy and Hurlston (1836-1837), Horn and Hurlston (1838-1839), Price's Notes (1830-1831), Hurlston and Walmsley (1840-1841) are some other reports that deal with the Exchequer decisions of a part of this period. The Exchequer Court had an equity jurisdiction till it was transferred to the Chancery in 1842. Wilson (1817), Daniell (1817-1819), Younge (1830-1832) and Younge and Collyer (1833-1841) deal with the judgments of the Court on that side.

Turning to Equity the judgments of Eldon are reported in the last eleven volumes of Vesey Junior in Cooper (1815), Merivale (1815-1817), Swanston (1818-1819), Wilson (1818-1819), Jacob and Walker (1819-1821), Jacob (1821-1822), Turner and Russel (1822-1824), and Russel (1826-1829). Sir William Grant was Master of the Rolls till 1818 when Plumer took his place. He was a great Equity Judge whose judgments by reason of their excellent form are better reported in Vesey Junior than those of Lord Eldon. In 1826 Lord Lyndhurst became Master of the Rolls. His judgments as Master of the Rolls are reported in Russel. In 1827 he became Chancellor and his judgments as Chancellor are reported in Russel, Russel and Mylne and Phillips (1841-1849). The only judgment of importance by him as Chancellor is said to be the judgment in *Fairman* v. *Fairlie* reported in Moore's Indian Appeals. He relied on his Masters of the Rolls and Vice-Chancellors. He had a greater propensity to affirm than to reverse. In this, his successor Lord Cottenham, who was also for a small time Master of the Rolls before he became Lord Chancellor, was a great contrast, although he was quite inferior to the former both in grasp of intelligence and in general acquirements. He did not even acknowledge that there was a presumption in favour of the decree appealed against. The wags used to say that with him every decree was wrong till the contrary was clearly proved, odds being two to one against Shadwell, V. C. and three to one against

Knight Bruce, V. C. His successor on the first Chancellorship was Lord Brougham who held office from 1830 to 1834. Lord Brougham was not a great Master of Equity, his equipments in that direction being of the poorest. Lord Cottenham became Lord Chancellor again in 1835. In spite of the weakness above referred to, and his inferiority to Lord Lyndhurst, he was regarded a consummate Equity Judge and commanded more credit. Mylne and Craig (1836-1848), Craig and Phillips (1841), Phillips (1841-1849) and Hall and Twells contain judgments of Brougham, Lyndhurst and Cottenham. In Macnaughten and Gordon (1849-1851) Lord Truro's judgments will be found. De Gex, Macnaughten and Gordon report the judgments of Lord St. Leonards, of Lord Cranworth and of the Lords Justices in Appeal in Chancery who were appointed in 1854. The first Lords Justices in Appeal to be appointed were Knight Bruce and Turner. This Bench lasted for 21 years and during all that period had hardly a weak Judge. Turner and Knight Bruce are distinguished names in Chancery and are very familiar to Indian lawyers as responsible for some of the leading judgments reported in Moore's Indian Appeals.*Hanooman Pershad Pandey* is a judgment of Knight Bruce, *Soorajmoone Dassee* of Turner. The beautiful English periods of these Judges has become a lost art in England. The subsequent Lords Justices were Rolt, Cairns, Selwyn, Wood, Giffard, the last ones being James and Mellish. In De Gex and Jones you get Lord Chelmsford's judgments. He was Lord Chancellor for a short time. Though not very distinguished, he was not badly thought of. In 1859 Lord Campbell became Lord Chancellor and continued till his death in 1861. His judgments as Lord Chancellor will be found in De Gex, Fisher and Jones. In 1861 Lord Westbury became Lord Chancellor. As a Judge he was very distinguished though his nepotism was equally notorious and ultimately he fell on account of the conduct of his son. His judgments and those of Cranworth will be found in De Gex, Jones and Smith. Both these eminent lawyers' judgments are also to be found in the Law Reports. As at Common Law, in Equity reporting also we see at this period considerable specialising. The Court of the Master of Rolls and the Vice-Chancellor's Courts are separately reported. Tamlyn (1829-1830) reports Leach's judgments as Master of Rolls, Keen (1836-1838) and the first volume of Beavan of Lord Langdale. Romilly's judgments are to be found in the other

volumes of Beavan. A Vice-Chancellor was appointed for the first time in 1813. Maddock, Simons and Stuart (1815 and 1822) report judgments of Plumer and Leach, V. C., Simons of Shadwell and Hart. Simons New Series (1850-1852), Drewy (1852-1859) and Drewy and Smale (1860-1866) report Kindersley, V. C. Knight Bruce, V. C. is reported in Younge and Collyer (1841-1843), Collyer (1844-1845) and 1 to 4 De Gex and Smale (1846-1852). 5 De Gex and Smale reports Parker, V. C.'s judgments. Smale and Giffard (1852-1857) and Giffard (1857-1865) report judgments of Stuart, V. C. In 1841 two additional Vice-Chancellors were appointed to meet the additional work transferred from Exchequer to Chancery. The first persons to be so appointed were Knight Bruce and Wigram. Wigram's judgments are reported in Hare. Turner's judgments in Hare and Kay and the other reports Kay and Johnson (1854-1858), Johnson (1859), Johnson and Hemming (1860-1862) and Hemming and Miller (1862-1865) report Sir William Page Wood's judgments. Sir William Page Wood became subsequently Lord Chancellor as Hatherley. He was an altogether exemplary man. His punctuality was proverbial. Tradesmen set their watches, it is said, as the Vice-Chancellor passed. He mastered every detail in the argument and dealt with it and the working of his mind in full detail in his judgment. His judgments were in consequence very long and Lord Campbell, while affirming his judgment, ventured to suggest that he would have arrived at the conclusion more satisfactorily if he compressed his observations and further recommended written judgments in place of oral judgments. This called forth a protest from Lord Romilly, M. R., and Kindersley and Stuart, his brother Vice-Chancellors. He never delivered a written judgment but once. His rambling judgments tried the reporters sorely. He was an efficient Judge but hardly left a mark on the legal literature of the day. He was much more satisfactory as Vice-Chancellor than as Chancellor and Lord Justice which he became before becoming Chancellor. In a Chancellor, naturally higher qualities than mere care, patience or acuteness are expected. He was the delight of painstaking equity pleaders who had the satisfaction that every argument of theirs was taken note of and dealt with in the judgment. The worst that can be said of him is that he burdened the books with many long and obscure judgments but he was always credited with purity of motive and conscientious industry. Another Vice-Chancellor who came in just at the end of this

period, *i. e.*, in 1865, was Malins, V. C. Weakness in law is not an uncommon feature with Judges, but the peculiarity of Malins was that he revelled in it. He was a good man but made a bad Judge. So strong was his love of fair dealing and hatred of oppression that he did not look very closely to the means by which he came to decide in favour of those who aroused his sympathies. If he failed in finding out a way to bring about the result he desired, he would try to make the parties compromise ; if those efforts failed, he would disallow the successful party his costs or some time even make him pay the costs of the unsuccessful party. Costs being within his discretion he felt sure that no appeal lay, but even there he was mistaken and once the Appellate Court interfered. There were appeals from almost every decision of his and his decisions were generally reversed. Even if the decision was right his reasons were wrong. It was a time when suitors could choose their own Courts and all hard cases without law on their side found their way into his Courts where they expected sympathy and success.

Ecclesiastical Reports.—The jurisdiction of the Ecclesiastical Courts in civil causes extended ordinarily to causes of matrimony and divorce, testamentary causes and the incidents thereto such as the probate of wills and grants of administration, controversies touching tithes, presentation to benefices, church rates, etc. Their criminal jurisdiction extended among other things to defamation. This jurisdiction was taken away in 1855. In 1857 their jurisdiction in testamentary matters was transferred to the Court of Probate and their matrimonial jurisdiction to the Divorce Court. The reports of the Ecclesiastical Courts till that date are of importance on all questions touching wills, divorce, defamation, etc. The highest Court of Appeal in ecclesiastical matters till 1833 was the Court of Delegates so called because the Judges in it sat by virtue of the King's Commission under the Great Seal. It was superseded in 1830 by the present system of appealing to the King in Council. The Primary Courts of importance dealing with these subjects were the Consistory Courts, *i. e.*, the Courts of the Bishops and Archbishops. The Judges of those Courts used to be called Chancellors. Of these Courts the Consistory Court of London came into special prominence. It was the only Court which used to entertain matrimonial and divorce suits from all parts of England. Prior to the reign of Henry VIII a party might cite the opposite party wherever resident to appear in the Court of his own

diocese. In 1531 a statute prohibited such citation. But the Courts held that this did not prevent parties from proceeding in such Courts by consent. This view led to parties proceeding to the London Consistory Court not only for the advantage of having their cases tried before an experienced Judge but also to enable them to have their cases conducted by London Proctors and members of the Doctors' Common Bar. Till 1867 it used to be thought that only members of this bar could practise before those Courts. At any rate, knowledge of civil law and canon law was a necessary equipment for practice in those Courts and could be found only in the "Doctors of the Common Bar". These advocates had practice also in the Admiralty Courts which were presided over by one chosen from among them. The Ecclesiastical Reports start with Haggard's Consistory Reports from 1789 to 1821 and Phillimore's Reports from 1809 to 1821. Phillimore was the father of Sir Robert Phillimore, the Admiralty Judge, later on Justice Phillimore. Addams reports from 1822 to 1826, Haggard from 1827 to 1833, Curteis from 1834 to 1844 and Robertson from 1844 to 1851.

Admiralty Reports date from 1776. Marriott deals with cases from 1776 to 1779 and Robinson from 1799 to 1808, *i. e.,* the period of Lord Stowell who is the most famous of the Admiralty Judges. Other well-known names are Lushington who sat in the Privy Council and delivered some of the judgments in the Moore's Indian Appeals and Sir Robert Phillimore. Edwards reports from 1808 to 1810, Dodson from 1811 to 1822, Haggard from 1822 to 1827, Dr. Robinson from 1831 to 1852, Swabey from 1858 to 1859, Lushington from 1860 to 1863 and Browning and Lushington from 1864 to 1865.

There are certain reports which report both Ecclesiastical and Admiralty cases, like Notes of Cases in the Ecclesiastical and Maritime Courts (1841-1850), Spinks (1853-1855) and Dean and Swabey (1855-1857).

The decisions of Probate Court established in 1857 are reported in Swabey and Tristram (1858-1865) and Searle and Smith (1859-1860); the decisions under the various Bankruptcy Acts by the Courts created under them will be found reported in the series, Rose (1810-1816), Buck (1816-1820), Glyn and Jameson (1821-1828), Montagu and M'Arthur (1828-1829), Montagu (1830-1832), Montagu and Bligh (1832-1833), Deacon and Chitty (1832-1835), Montagu and Aryton (1833-1838), Deacon (1836-1839), Montagu and

Chitty (1838-1840), Montagu, Deacon and De Gex (1840-1844), De Gex (1845-1850), Fonblanque (1849-1852), De Gex, Macnaghten and Gordon (1851-1855), Bankruptcy and Insolvency Reports (1853-1855), De Gex and Jones (1857-1859), De Gex, Fisher and Jones (1859-1861) and De Gex, Jones and Smith (1862-1865). The identity of the reporters of Insolvency and Chancery is accounted for by the appellate jurisdiction of the Chancellor and the Lords Justices under the Insolvency Acts. Another series is Cresswell (1827-1829) and Macrae and Hertslet (1847-1852).

The reports that we have been hitherto dealing with are regarded as more or less authorised. The idea of authorised reports arose from the Licensing Act of 1662 which required for law books the leave of the Lord Chancellor and one of the Chiefs of Common Law. Even after the lapsing of the Licensing Act, the practice of taking certificate from one or more Judges continued. The *imprimatur* of course gave no guarantee as to the authenticity. But whatever the case with the earlier reports, the reports after George III's time seem to be, as we have had occasion to remark, carefully prepared. The fact that they were authorised gave them a monopoly which made for both prolixity and dilatoriness so that from 1823 onwards a number of anonymous reports appeared some of which continue up-to-date. The first of the series, the Law Journal Reports, made its appearance in 1823 and continues till to-day, the new series, as they are called, beginning from 1832. The Jurist began half-magazine and half-gazette in 1837; from 1841 it confined itself to reports and finally ceased to exist in 1866. In 1837 appeared Justice of the Peace reviewing magisterial decisions. In 1845 the Law Times appeared at first with reports and general matter mixed but from the commencement of the new series in 1859, in separate volumes. Weekly Reporter first appeared in 1852 with a view of giving brief and speedy notes of current decisions and was finally incorporated with the Solicitors' Journal and Reports in 1857. In 1884 commenced Times Law Reports which are published weekly during the sittings of Courts and give an account of the current legal business. It was thought that the publication of the Law Reports would put an end to these reports, but it has not had the effect contemplated for the obvious reason, firstly, that no journal could meet the needs of all classes of practitioners which the increasing complexities of modern life tend to divide into compartments of specialised learning; secondly, consideration of space

would naturally lead to a certain amount of holding over of cases which gives to the competitor his opportunity.

Another set of reports to which reference should be made is the Railway and Canal Cases. These report decisions of the Canal Commissioners or of Committees of Parliament from whom an appeal lay to the Court of Common Pleas and later on to the Court of Appeal. When these cases were cited before the Court of Common Pleas in 7 Manning and Granger 4, Chief Justice Tindal told counsel that so far as the reasoning went it might be proper to cite them but not as authorities. Those reports are Railway cases (1835-1855), Beavan and Walford's Parliamentary Cases (1846), Neville and Macnamara (1855-1905).

The next reports to which we shall refer are the Election Reports. Under the Parliamentary Election Act, 1868, the trial of Parliamentary elections is conducted before two Judges of the King's Bench Division selected from *rota* appointed annually. Before that, Judges were not employed for the purpose. These series begin from 1776—Fraser (1776-1777), Phillips (1782), Luders (1785-1790), Peckwell (1802-1806), Corbett and Daniell (1819), Cockburn and Rowe (1833), Perry and Knapp (1833), Knapp and Ombler (1834), Falconer and Fitz Herbert (1837), Baron and Austin (1842), Baron and Arnold (1843-1846), Power, Rodwell and Dew (1847-1856), Wolferstan and Dew (1856-1858), Wolferstan and Bristowe (1859-1865), O'Malley and Hardcastle, 1869 onwards.

The only reports that remain to be dealt with are the reports of the House of Lords. It is a remarkable feature in the history of English Law that the early authoritative source of the law is not the reports of the judgments of the House of Lords, admittedly the highest judicial authority, but the reports of the less august tribunals, the Chancery and Common Law Courts. The reason is not far to seek. Till we come to recent times, the legal profession was but poorly represented in the House of Lords. So often, the Lord Chancellor was the only Law Lord. Sometimes even he was not a lawyer. During the long period Lord Hardwicke was the Lord Chancellor, he was the only Law Lord. Later he had Lord Mansfield with him. In these circumstances, it is not surprising that the Court of Session in Scotland should have resented the reversal of a decision of a full Court of fifteen Judges by Lord Eldon assisted

by one other Law Lord and should have gone so far as to say that the decision of the House of Lords will be obeyed but not followed. It is only when by the retirement at small intervals of Lord Chancellors a number of Law Lords became available, that the prestige of the House of Lords increased and it became a really effective body. The poverty of legal element in the House of Lords was occasionally sought to be made up by summoning the Judges to the bar of the House of Lords to give their opinion on the questions submitted. As this practice caused considerable dislocation of business, it could only be rarely resorted to. The reports of the House of Lords commence with Brown (1702-1800) in eight volumes. This report was published in 1803. The period covered is a sufficient index to the importance attached to the House of Lords' decisions of the period. Dow (1812-1818) and Bligh (1819-1821) cover Lord Eldon's time. Dow and Clark (1827-1832) contain judgments of Lords Eldon and Lyndhurst. In fact, with only Clark and Finnelly we get to reports often referred to as authority. Clark's House of Lords Cases also have decided many questions of importance. During the period of the last-named reports you had many retired Chancellors available, Lord Lyndhurst, Lord Cottenham, Lord Cramworth, Lord St. Leonards, Lord Erskine, Lord Chelmsford and others so that the House of Lords could stand on its own legs. The other reports of this period are Maclean and Robinson (1839) and West (1839-1841).

The reports of the Privy Council begin from 1809— Acton from 1809 to 1911 and Knapp from 1829 to 1836. But the regular reports only begin from 1833 when the Judicial Committee was organised. Before that a special Committee had to be appointed for each case and the cases heard also were not many. Moore (1836-1862), Moore's N. S. (1862-1873) and Moore's Indian Appeals (1836-1868) make up the series. The lawyers that compose the Judicial Committee are practically the lawyers that decide cases in the House of Lords with a leaven of Judges that are not peers It is only recently that Colonial Judges have been added on but their number is too small to produce any impression upon the judgment of the tribunal except in cases where local knowledge might be considered essential.

SUMMARY OF ENGLISH CASES.

VERGOTTIS *v.* WILLIAM CORY AND SON, LTD., (1926) 2 K. B. 344.

Shipping—Charterparty—Obligations of shipper—Failure to have cargo ready—Breach of—Liability to pay damages.

A shipper's obligations with regard to the loading of the cargo are twofold: (1) an absolute obligation to provide the cargo at the port of loading, and (2) an obligation to do his part of the loading in the agreed time, *i. e.*, the fixed lay days, or a reasonable time, as the case may be. This does not mean he must always have the whole of the cargo at the port when the ship arrives. He must have made and carried out arrangements for the delivery of the cargo at the ship's side in time to load her in accordance with the terms of the charterparty. But this obligation arises only after the vessel arrives in the dock.

PUBLIC TRUSTEE *v.* ELDER, (1926) 1 Ch. 776.

Partnership—Suit for accounts—Parties to suit—Custodian of Enemy Property—Position of—Partnership Act, 1890, *Ss.* 31, 38.

Three German subjects were in 1914 carrying on business in England in partnership with an Englishman, who was the managing partner. During the period of the war, he collected the assets with a view to dissolution. In 1924, the property of the German partners became vested in the Public Trustee, as custodian for enemy property and he sued the executor of the English partner for accounts. *Held,* by the Court of Appeal affirming the decision of Eve, J. in (1926) Ch. 266 that all the partners should *eo nomine* be parties to the suit, and the German partners not having been impleaded the suit was not maintainable.

Per Sargant, L. J.—An assignee of the share of a partner in a dissolved partnership cannot, when requiring an account as from the date of dissolution, substitute for the reciprocal personal obligation of the assigning partner to account to the other partners a mere personal obligation of the assignee himself to account, while still requiring the other partners to discharge as towards him their personal obligations.

In re PARK WARD AND COMPANY, LTD., (1926) 1 Ch. 828.

Company—Winding up—Debentures issued pending proceedings—Validity of—Companies (Consolidation) Act, 1908, *S.* 205 (2).

After a petition had been put in for the winding up of a Company, and prior to the order of winding up, a person advanced a sum of money to the Company for paying the wages to its staff and a debenture was created in his favour. The debenture-holder knew at that time of the petition for winding up. *Held*, the debenture was nevertheless valid. L. R. 3 Ch. 443 followed.

In re WILKINSON : PAGE *v.* PUBLIC TRUSTEE, (1926) 1 Ch. 842.

Will—Construction—Legacy to niece until she voluntarily ceased to reside in a house—Marriage of legatee and change of matrimonial home—Effect of.

The testatrix gave by her will a dwelling house to her niece and directed the trustees to pay to her the income arising from some funds to be paid to her " during the term of her natural life or until she shall voluntarily cease to make the said dwelling house her permanent home " and in that event, the fund was to form part of the residuary estate. The niece married and pursuant to her husband's wishes, she wanted to change her matrimonial home. *Held*, on a construction of the will, the bequest was one for life and the clause relating to the dwelling house was not a condition subsequent but merely in the form of a limitation; the bequest was not invalid as being uncertain or contrary to public policy ; and as the change of residence was only in pursuance of her marital duty, it could not be said to be " voluntarily ceasing " within the meaning of the clause in the will so as to deprive her of the interest under the will.

R. E. JONES, LTD. *v.* WARING AND GILLOW, LTD., (1926) A. C. 670.

Bill of change—Holder in due course—Payee of cheque, if one—Money paid under mistake of fact—Fraud—Suit for recovery of—Bills of Exchange Act, 1882, *Ss.* 2, 21, 29 *and* 31.

X fraudulently represented to the plaintiffs that he was the agent of a Motor Company, which was being backed up financially by the defendants, and offered them the sole agency of the motor-car, and on that basis wanted from them an initial deposit of £5,000. A cheque was duly issued in the name of the defendants, and sent to them. The defendants did not know of these representations, but accepted the cheque as paid on behalf of *X*, who owed them a large sum of money.

The plaintiffs came to know soon after that the whole affair was a sham, that no Motor Company existed as alleged by *X* and thereupon sued the defendants for return of the money, as paid under a mistake of fact. *Held,* by a majority of the House of Lords (Viscount Cave, L. C. and Lord Atkinson dissenting), reversing the decision of the Court of Appeal in (1925) 2 K. B. 612, the plaintiffs were entitled to recover the money.

Per curiam—The original payee of a cheque is not a holder in due course within the meaning of the Bills of Exchange Act, 1882.

LETANG *v.* OTTAWA ELECTRIC RAILWAY COMPANY, (1926) A. C. 725.

*Torts—Negligence—*Volenti non fit injuria*—Applicability of—Invitee—Dangerous premises—Duty to.*

In the case of a person who has been invited to the premises of the defendant on business and who sustains personal injuries owing to the dangerous condition of the premises, the maxim *volenti non fit injuria* will apply as a defence to an action for damages only if it is proved that the plaintiff freely and voluntarily, with full knowledge of the nature and extent of the risk he ran, impliedly agreed to incur it.

BANK OF N. T. BUTTERFIELD AND SON, LTD. *v.* GOLINSKY, (1926) A. C. 733.

Company—Shares in Bank—Equitable assignment—Title of holder—Priority.

Where there has been a transfer in equity of the shares in a Bank, even although there has been no registration of the legal title, the equitable assignee is entitled to say that any advance to or purchase from his assignor does not cut down his title. Such equitable title cannot be defeated by a legal estate of which he had no notice.

FIRM OF R. M. K. R. M. *v.* FIRM OF M. R. M. V. L., (1926) A. C. 761.

Principal and agent—Money-lending firm with vilasam—*Judgment against agent with* vilasam—*If bars suit against firm*—Res judicata.

A *Nattukottai Chetty* firm was carrying on money-lending business in Penang under the firm *vilasam* and it was being managed by an agent. All legal proceedings and transactions by or against the firm were done in the name of the firm *vilasam* to which the name of the agent would be appended. A cre-

ditor of the money-lending business obtained judgment against the firm as described above, and subsequently sued the firm alone for the same debt. *Held*, such a suit was barred. The principle on which *Kendall* v. *Hamilton*, 4 A. C. 504 is based, explained.

CHRISTIAN *v.* TAYLOR, (1926) A. C. 773.

Will—Construction—Estate to widow for life—Remainder to children—Gift over to survivors on death without issue —Period of distribution.

A person by his will gave the residue of his estate to his widow for life and specific lands for each of his children, which however were to take effect only after her death. There was finally a clause which recited that if any of his children died without issue, his or her share should be divided among the survivors. *Held*, the reference to children dying without issue could mean only death prior to the period of distribution, *i. e.*, the death of the widow. Case-law discussed.

GORDON GRANT AND CO., LTD. *v.* F. L. BOOS, (1926) A. C. 781.

Mortgage—Decree for sale—Mortgagee purchasing property with leave of Court—Personal covenant—Right to sue for balance.

Where after a decree for sale on a mortgage, the mortgagee with the leave of Court purchases the property at the sale, he can afterwards sue on the personal covenant for any balance that may remain due. In such a suit the mortgagor cannot claim that his right to redeem had been revived and reopened. Rights of parties set out.

WRIGHT *v.* MORGAN, (1926) A. C. 788.

Trust—Trustee if can buy property belonging to—Option to trustee to purchase given in will—Assignment of option—Validity.

A testator by his will provided that a certain property should be offered at a proper valuation to his son *X*, who was one of the trustees appointed under the will. *X* conveyed his rights under the will to *Y*, another son of the testator and also a trustee under the will. *Y* exercised the option and purchased the property under a proper valuation. *Held*, the purchase by *Y* was invalid, as there was a conflict between interest and duty and equity would not allow such a transaction to stand.

In re GRIFFITHS: JONES *v.* JENKINS, 95 L. J. Ch. 429.

Will—Construction—Income of fund to a person—Provision against disposal—Bankruptcy petition—Effect of.

Under the terms of a will, the trustees were to pay the income of a fund to *X*, but he was not allowed " to anticipate, charge, assign or otherwise dispose of " the same, and if it was so done, the fund was to be divided among other beneficiaries. During the lifetime of the testator *X* was adjudged insolvent on his own petition. *Held,* it did not bring the defeasance clause into operation and the interest of *X* passed to his trustee in bankruptcy.

WILSON *v.* SIMPSON, 95 L. J. K. B. 885.

Income-tax—Insurance premia—Deduction of—Policy on joint lives—Allowance of proportionate share—Income-tax Act, 1918, *S.* 32 (1) (*a*).

Where an insurance is effected in respect of the joint lives of two persons and each of them is to pay half the premium amount, no deduction will be allowed in respect of the half share of the premium paid.

JOTTINGS AND CUTTINGS.

Sir Henry Dickens, K. C.—The celebration of their golden wedding by Sir Henry and Lady Dickens has recalled to public attention the close and intimate connection which always has existed between Law and Literature. Sir Henry is not only Common Sergeant of the City of London, and in that capacity a distinguished criminal judge ; but also one of the many able jury advocates who a generation ago, in the great days of Sir Edward Clarke and Sir Edward Carson, were only second to these great masters in the art of captivating by moving eloquence " twelve good men and true ". He has also, however, what many will regard as the even greater distinction of being the son of the most popular of all English novelists, Charles Dickens, himself at the beginning of his life a solicitor's clerk, and the greatest master in fiction of the art of portraying lawyers and legal scenes under the guise of Romance. The Common Sergeant, too, is named after another great novelist who was also a lawyer, Henry Fielding, for many years a London police-magistrate. There was once a Mendelssohn who used to complain that in his youth he

was known as the son of Mendelssohn the great composer, and in his age as the father of Mendelssohn the great philosopher, but no one ever called him what he really was, Mendelssohn the lawyer and Burgomaster. Sir Henry, however, will be remembered both as Common Sergeant in his own right, and as the talented son of a famous father.

—*The Law Journal*, October 2, 1926, p. 207.

The Honour of the Profession.—In his interesting paper on "The Honour of the Profession and Our Society as its Guardian," which was read at the Birmingham Meeting, Mr. R. Ralph Tredgold suggested that its honour might be safeguarded pecuniarily by the Law Society undertaking to indemnify the public against loss incurred by the fraud of a member of the Society. This is a variation on the proposals which have been made with the like object in recent years. There was the attempt made by Mr. William Godden in a paper read at the Weymouth Meeting in 1900 to extend the system of keeping separate accounts for clients' money and the solicitor's own money. The plan, he said, had been in operation in many leading businesses for many years, and the solicitors who used it testified to the comfort and assurance it gave. Probably since then the practice has very much increased. Next, there came the attempt, to which Mr. Tredgold refers, to submit solicitors' accounts to an annual audit. This was one of a series of recommendations made by the Solicitors' Practice Committee in June, 1907, and considered by a general meeting in the following month. It was rejected on a poll by a very large majority—4,635 to 691, though other recommendations, including the keeping of separate accounts, were adopted. The weak point was, that no means were provided for making the practice obligatory. Mr. J.S. Beale referred to this omission in his Presidential address at the Birmingham Meeting in the following year, and suggested that a pledge to adopt it should be made a condition of membership of the Law Society and the Provincial Societies, but no step in this direction has, so far as we are aware, ever been taken.

—*The Law Journal*, October 2, 1926, p. 208.

The Status of the Profession.—In his paper on "Some Matters Affecting the Status of the Profession," Dr. E. Leslie Burgin was on ground similar to that occupied by Mr. Tredgold in the paper referred to above, though his observations were rather in the abstract than concrete, and perhaps tended

in some respects to be idealistic rather than practical. The reply to the question, "What is the daily object of the members of our profession?" would, according to the realist, be—costs. Dr. Burgin omits this homely detail, and suggests that it is the accurate determination of the law upon a given subject; and, beyond this, the solicitor must remember that he is dealing with living exhibits and sentient beings. He is not to forget this when he writes a letter claiming payment of a debt. It may mean "the bringing of a great cloud over the inmates of the house," and may even spell ruin. That is so, and the writing of the letter is a regrettable necessity, but it has to be done. We gather that Dr. Burgin will be satisfied if the letter has more humanity in its terms than is often the case. We doubt if it would make much difference either to the debtor or to the status of the profession. A solicitor's letter, however it is framed, is the mildest of the processes known to the law. Still, no doubt the status of the profession depends upon the conduct of its individual members, and it is because this has been realized, and the individual members as a whole have steadily advanced in education, ability and disinterestedness, that the profession now holds so high a place in the Commonwealth.

—*The Law Journal,* October 2, 1926, p. 208.

The Writing of Judgments.—The art of writing judgments is no mean one; and some remarks on the subject in the recently-issued book by Mr. Henry W. Taft ("Law Reform"; New York. The Macmillan Co.) are very much to the point. True, Mr. Taft is referring in particular to judicial shortcomings in America; and, indeed, he declares: In the decisions of English Judges the art of condensation is highly cultivated. "For quotable good things, for pregnant aphorisms, for touchstones of ready application, the opinions of English Judges are a mine of instruction and treasury of joy:" a generous tribute enough. But that the art of the written judgment has attained, this side the Atlantic, anything approaching perfection, no one with a detailed knowledge of the *Law Reports* would dare to affirm; and the "ideal Judge" whom Mr. Taft pictures in this connection is still below the horizon. "The ideal judge," he says, "confines himself to a brief, clear-cut analysis and a logical conclusion. He has the power of lucid statement; a sense of literary style; sufficient industry to revise and then again revise; some facility in the art of condensation; and he avoids lengthy and irrelevant dissertations without definite purpose, representing merely his individual

views." Mr. Taft, indeed, is very shy of the *dicta* habit. "It is," he says, "only the quaint artificers that may set at naught the sound rule that *dicta* are to be avoided." He deprecates, too, "useless dissenting judgments". His main argument against them is that they have not the force of precedents. "Inevitably, therefore, they are written without the responsibility that should actuate and restrain judicial action." On the other hand, he agrees that a Judge who is "capable of profound analysis and luminous reasoning, and is gifted in the art of persuasive expression," may, in a dissenting judgment, "promote discussion of a needed change, and thus perform a valuable service, albeit under our system of precedents it is not a part of the judicial function."

—*The Law Journal,* October 9, 1926, p. 231.

Mr. Taft and Judicial Humour.—The outstanding feature of Mr. Taft's book is the brilliant introductory essay; and some incidental comments of his on the proneness of English, no less than American, Judges to "ignore Bacon's admonitions that they should be more learned than wittie," and that "an over-speaking Judge is no well-tuned cymbal," will be read with interest by lawyers this side of the Atlantic. The English Bar, says Mr. Taft, is "a small highly-organised body of men, generally of broad culture, professional and otherwise," whose reputation and livelihood depend upon their compliance not only with the requirements of the law but also with the more subtle exactions of professional proprieties. "They are more directly responsible to the Court, and are, at least in theory, more subject to judicial restraint, than are the vastly greater number of American lawyers who may go into any Court without the patent of professional nobility which distinguishes the English barrister." In spite, however, of a highly-trained bar, in spite, too, of the fact that the Judges themselves are selected from the bar; in spite of this, declares Mr. Taft, the highest standards of judicial decorum are not always observed by the English Bench. "I have before me records in four recent trials in England, selected at random, in which the Judges repeatedly indulged in quite gratuitous witticisms which evoked unchecked laughter. A little humour creating a general atmosphere, during a trial, aids the Judge, counsel and jury in the investigation of truth; and it produces in witnesses a self-possession which aids them in testifying. But too frequent indulgence in pleasantries is hardly consonant with proper decorum, and especially since it is a very poor

judicial sally to which the gravest court-room audience will not obligingly re-act."

—*The Law Journal,* October 9, 1926, p. 231.

Sir Thomas Rolls Warrington.—The opening of a new Legal Year is often marked, as is this one, by two features, one of gladness and one of sadness; the appointment or promotion of new figures in the judicial hierarchy and the retirement of old ones. There will be general regret at the resignation of Sir Thomas Rolls Warrington, who has been a Judge for two and twenty years, a King's Counsel for about forty, and a member of the Chancery Bar for fifty-one. A Rugby schoolboy and a scholar of Trinity College, Cambridge, Lord Justice Warrington was one of those members of the Bar who rise rapidly into practice and achieve an early success. It was his combination of two qualities not always found together which marked out Sir Thomas for rapid success: he united a strong, even a masterful, personality with a singularly sound and thorough comprehension of legal principles. As a first instance judge in Equity, he shared with Lord Cozens Hardy and Lord Swinfen Eady, afterwards both holders of the office of Master of the Rolls, the distinction of being a judge hardly ever reversed in the Court of Appeal, and, if reversed in a moment of temerity, almost certain to have his judgment restored in the House of Lords. His promotion to the Court of Appeal was a simple matter of course, and there for many years he has been the mainstay in matters of Equity of a Court in which Common Law Judges now predominate in the ratio of two to one. Two years ago the catastrophe of a broken thigh deprived the Court of his services for several months, but with unbroken courage he returned to work on his recovery. We may express the hope that in the well-deserved peerage which he receives, a well-known name will not be dropped.

—*The Law Journal,* October 16, 1926, p. 245.

The New Chancery Judge.—The selection of Mr. Albert Charles Clauson, K.C., for the vacant Chancery Judgeship had been pretty generally anticipated for some time, and is warmly welcomed. Mr. Clauson has long enjoyed great popularity among all who know him, whilst his abilities have always caused him to be regarded with the greatest respect. Age does not handicap him, since he is only fifty-six, a somewhat youthful age for a Chancery Judge. A double first at Oxford and a Tancred Scholar of Lincoln's Inn, he was called to the Bar in 1891, took silk in 1910, and became a Bencher in

1914. It was in company law and practice that he reached the pinnacle of success he now enjoys; there is no Chancery practitioner—except, perhaps, the veteran Mr. Upjohn—whose professional income has reached his of recent years, unless all rumours are false. But his great gifts of rapid and accurate grasp of principles, and lucid exposition of complicated facts, are not confined to company matters; he has shone in every sphere of Chancery practice. His gift for advising laymen in consultations led to his appointment as standing counsel to a large number of public and private bodies, of which Oxford University and the Royal College of Physicians are two. As a text-book writer, his edition of *Buckley* has maintained the standard of those edited by the author.

—*The Law Journal,* October 16, 1926, p. 246.

The Late Sir John Strachey Bucknill.—Members of the Bar who have experience of the Colonial Service learned with deep regret last week of Sir John Bucknill's untimely death. Born in 1873, and called to the Bar at the Inner Temple in 1896, he served as an Imperial Yeoman in the South African War, and thereafter elected for a career in the wide spaces of the Empire, although family influence might have won for so talented an advocate first-rate opportunities in England. He held minor judicial offices in the Transvaal, and afterwards in Cyprus and Hong-Kong. Then, in 1914, he became Chief Justice of the Straits Settlements, where it was generally agreed at the Bar that he displayed a legal learning hitherto unknown amongst colonial Judges. In 1920 he was transferred to the Indian Office as a Judge of the High Court at Patna, and there, too, his reputation for learning and scholarship was of the highest order. It was generally understood that on his retirement, due in a few years, the precedent in the case of Lord Hobhouse and Sir John Edge would be followed, and he would be added to the list of Privy Councillors for service on the Judicial Committee. A naturalist, an archæologist and a numismatologist, as well as a lawyer, he was one of the most versatile, as well as one of the most humane of men. Ever genial and ever debonnaire, he will be sincerely mourned by all who practised in his Court.

—*The Law Journal,* October 16, 1926, p. 247.

The Parental Rights over Children: Tremain's Case.—The recent American case of *State of Washington* v. *Russel Tremain,* in which the American Courts have taken away from both his parents the custody of a boy on the ground that they

had forbidden him to salute the Star and Stripes at school, thereby proving themselves to be unpatriotic and ethically unfit to enjoy the *privilegium* of *Patria Protectas,* will have reminded some practitioners of the coincidence that it was in the case of a youth called, also, "Tremain" that Lord Eldon stretched to the extreme the authority of the Court of Chancery over a ward of Court. In *Tremain's Case,* 1 *Stra.* 168, the guardian of a youth under age decided to send him to Cambridge, whereas the young man insisted on going to Oxford. At Common Law, in such a case, the infant being over sixteen, although under twenty-one, his father or guardian would have had no power to compel him to reside where he did not wish. But Tremain's father had made a settlement upon him so that Tremain was a ward of Court, and, therefore, his guardian had on his side the whole machinery of the Chancery Division to maintain his authority over the youth and secure obedience. The Court not only made an order that the youth must attend Cambridge, but sent a messenger to carry him from Oxford. On the boy returning to Oxford, the Court sent another messenger "*tam* to carry him to Cambridge, *quam* to keep him there". This is, of course, the leading case which illustrates the much greater authority over a ward of Court possessed by the Chancellor than the common law authority vested in his guardian.

—*The Law Journal,* October 16, 1926, p. 248.

Judicial Changes in India.—Ever since the Ministry of Lord North remodelled the judicial system of India on the lines of English procedure, sending out Sir Elijah Impey as the first Chief Justice of Bengal, and Mr. Justice Chambers —Dr. Johnson's friend and conveyancer—as one of his puisnes, India has afforded a great career for English Barristers alike in practice and on the Bench. The Indian law vacations correspond closely with the English, and the close of the legal year in India, like that in England, is usually marked by retirements and new appointments amongst the Judiciary. On the present occasion Sir Lancelot Sanderson has retired from the Chief Justiceship which he has held for about fourteen years; and he has been succeeded by Sir George Claus Rankin, one of the Judges of the High Court of Calcutta. This succession had been generally anticipated, since Sir George is not only a very learned and sagacious lawyer, but earned his title to promotion seven years ago by the courageous skill with which, as judicial member of Lord Hunter's Commission which inquired into the Punjab Riots and their

repression, he insisted on probing the massacre of Amritsar to the bottom, refused to let evidence be ignored or atrocities hushed up, and drafted the statesmanlike report which, steering clear between pro-Nativism and Imperialism, summed up with eminent fairness the exact degree of responsibility and the exact amount of excuse which might reasonably be pleaded in respect of each of the chief actors of that tragic drama. Sir George Rankin was a very distinguished student, first of Edinburgh University, and afterwards of Cambridge, where he was president of the Union, as well as a first-class in Moral and Political Science. At the English Bar he entered the chambers of Lord Sterndale, and enjoyed a large junior bankruptcy practice until the war called him to service as an Artillery Officer. Shortly before demobilisation he was offered and accepted an Indian Judgeship at the instance of Sir Lancelot Sanderson, then Chief Justice, who had known and greatly admired Rankin's form at the English Bar. He is certainly one of the most intellectual and scholarly Judges who ever have served in India, and nothwithstanding nearly nine years of judicial service, is still on the right side of fifty.

—*The Law Journal*, October 23, 1926, p. 261

The Retirement of Sir Lancelot Sanderson, K. C.—The retirement of Sir Lancelot Sanderson will be generally regretted in India. Sir Lancelot is a young man for a retiring Chief Justice of fourteen years' standing; for he is only a little over sixty, but age in India is not the same thing as age in England, and no white man who values his health or his reputation for efficiency cares to remain in India after he has entered his seventh decade. Sir Lancelot at the English Bar was in chambers for many years with the late Lord Sterndale, and had enjoyed a very large practice as a junior, both in the Commercial Court and on the Northern Circuit. It was a matter of surprise at the time that one who seemed to have so fair a future before him in England should have been tempted by the offer even of one of the highest judicial appointments in India; but after taking silk Sir Lancelot had suffered a considerable diminution in practice, probably only temporary, and felt that in the circumstances it was his duty not to reject the great prize rather unexpectedly offered him. His appointment is understood to have been due to an instruction contained in a minute of Lord Morley to the effect that on the next vacancy in any high legal appointment in India an effort should be made to secure for the Indian Service some lawyer of first-rate practice and prospects in England. Lord Morley was deep-

ly opposed to the practice, somewhat too common in earlier days, of regarding Indian patronage as a means of rewarding brilliant University men or second-rate politicians who had failed at the Bar. The more modern system, under which only men of standing are selected for the Indian Bench, is the result of Lord Morley's strong views. Certainly in the case of Sir Lancelot Sanderson and Sir George Rankin the principles of that great politician and man of letters have abundantly justified themselves.

—*The Law Journal*, October 23, 1926, p. 262.

Refusal to answer Incriminating Questions.—Every advocate is acquainted with the peculiar rule of the English Law of Evidence which allows a witness to refuse to answer any question if the answer either discloses a defect in his title or the possible commission by himself of a criminal offence. A dramatic illustration of the rule and of the limitations which hedge it around, however, has just been afforded on a grand scale by the American proceedings which have led up to the indictment of Mr. Henry M. Daugherty, formerly Attorney-General of the United States, and of Colonel Miller, formerly Alien Property Custodian in the same country. Certain charges of fraud and conspiracy to defeat the interests of the public were made in Congress last year against private companies and minor officials. A prosecution against certain defendants followed, as the result of which the Grand Jury before finding a true bill, desired to hear the evidence of Mr. Daugherty. He declined to appear voluntarily, but was summoned as a witness by subpoena. He then refused to give evidence on the remarkable ground that his evidence might be used against himself in a criminal charge. The Court, however, took the view that such a plea does not avail to excuse a witness from going into the box and being subjected to questions; it is only available as a plea for refusing some particular question which has been asked after he has entered the box. Mr. Daugherty was, therefore, under the necessity of giving evidence, and of taking separate objection to each question. The result was that he has now been indicted in connection with the matters to which his testimony, thus compelled under a threat to commit him for contempt, related. The case is remarkable not only as illustrating in a very clear way an important limitation on the plea, but also because this is the first recorded case of a prosecution for an indictable offence of any member of an American Cabinet. Of course,

it must not be assumed that Mr. Daugherty is guilty of the complicated offences charged against him merely because he refused to answer questions for the reason mentioned above. Such a plea may be taken by a witness merely *ex abundanti cautela,* and is not to be deemed conclusive of guilt, nor, according to the better opinion of practitioners at the Criminal Bar, is it available to the prosecution as evidence of such.

—*The Law Journal,* October 23, 1926, p. 262.

The Stolen Wig and Gown.—The little misadventure of Captain Ernest Evans, M. P., whose wig and gown were stolen from his car just when he was departing for the Welsh Circuit, has recalled to many denizens of the Temple a somewhat similar episode which happened to Lord Birkenhead, then Mr. F. E. Smith, some twenty years ago. F. E. Smith had just got into Parliament, and was rising into prominence as the daring leader of a new Fourth Party of Tory Democrats, who seemed to have taken the place of Lord Randolph Churchill's once brilliant group. He was staying for a week-end at a country-house in Chester where it so happened that one or two prominent figures in the Liberal Party were also guests, and speculations were rife as to whether or not he was about to "go over" to the Liberal Party. This particular week-end, as luck would have it, a fire broke out and devastated a wing of the mansion, including the room occupied by Mr. F. E. Smith, whose wardrobe was completely destroyed. Next morning he had to appear in Court on the North Western Circuit, but at the commencement of his case he was not forthcoming. His solicitor, however, hastily explained that he had for the moment nothing to wear except a dressing-gown, so that he could not appear, and there had been no time to instruct anyone else in his place. The Bench, after solemnly pretending to consider all the precedents applicable to such cases, finally decided that it had power to adjourn the case *propter necessitatem* until Mr. Smith, "clothed and in his right mind," could appear in wig and gown. It would have been *contra bonos mores,* they held, to insist on counsel appearing in his bath-robe. So the hearing was postponed accordingly.

—*The Law Journal,* October 30, 1926, p. 279.

BOOK REVIEWS.

FICTIONS IN THE DEVELOPMENT OF HINDU LAW TEXTS, by C. Sankararama Sastri, M. A., B. L., Vasanta Press, Adyar.

We must confess we have some doubts as to the appropriateness of the title but that is neither here nor there. We most whole-heartedly welcome this attempt, the first of its kind from Madras to discuss the assumptions, the theories and the atmosphere of mediæval Hindu lawyers. In effect, it is a discussion of the theories and assumptions of the Mimamsa school. Mimamsa being the science of Dharma *par excellence*, the orthodox Hindu lawyers could not help paying allegiance to those theories. Two such theories are the theory of the supremacy and sufficiency of the Vedas as a source of Dharma and the connected theory of Ekavakyata of or harmony among the Smritis. But with all their ingenuity they could not achieve the impossible and so get out of the difficulty by classifying the Smritis according to the age for which they are designed, by the application of the convenient rule that what is not approved of by the world cannot lead to heaven and therefore should not be practised and by the theory of the lost text or as Kumarila Bhatta would have it, the unperceived text. The lecturer has some very interesting observations to make on the question of the relative authority of the Dharma Sastras, usage and King-made laws and on the peculiar doctrine as to Vyvahara as distinguished from Dharma proper which reminds one of the distinction between the Vyavaharika and the Paramarthika in the Vedanta. The whole subject is, of course, capable of a fuller and more systematic treatment which could not be expected in a course of four lectures. It is hoped that either the learned lecturer or some one similarly inclined would develop the thesis and present us with a comprehensive treatise on the subject. The lecturer shows considerable acquaintance with the recondite branch of Sanskrit learning, the Mimamsa, and Mr. K. Balasubramania Aiyar, by whom the lecturership was founded in memory of his father the late Mr. V. Krishnaswami Aiyar, is to be congratulated on the selection of both the subject and the lecturer.

THE PRACTICE AND PROFESSION OF LAW, by Rai Nibaran Chandra Das Gupta Bahadur. Published by Messrs. R. Cambray & Co., Hastings Street, Calcutta.

This is a sort of manual for the guidance of young aspirants in the legal profession and contains much shrewd and

useful advice as is to be expected from a person of the experience of the writer. One bit of curious advice which he gives may be noticed. He says that it is advisable for a practitioner after he has picked up some experience—of course if he does not make a mark in the place of his original choice —to change the place for another where his early failures and blunders will not be known. One other piece of advice which cannot be too much insisted upon is that mother wit alone will never do for success at the bar without industry and application. The book will repay careful perusal.

THE LAW OF MADRAS LOCAL BOARDS, by Mr. C. V. Naidu, Pleader, Trivellore. Second Edition. Printed at the Madras Law Journal Press. Price Rs. 10.

The Madras Local Boards Act and the rules framed by the Local Government thereunder have of late been frequently coming up before the Courts in connection with the disputes about elections; and the publication of the volume under review at this time has therefore to be welcomed by lawyers and laymen alike. So far as we are aware there is no other publication giving the Madras Local Boards Act and all the rules framed under it with full commentaries on the sections and the rules and with a discussion of the case-law under them. In bringing out this work, Mr. C. V. Naidu has done a real service to the cause of Local Self-Government in this Presidency. The author has dealt with the subject in a most exhaustive way by giving explanatory and critical comments under the various sections and rules and referring to all the Indian decisions and the more important English rulings. No decision having any bearing on the Act has been omitted and even cases which have not been fully reported and which have only appeared in summaries of recent cases in the legal periodicals have been referred to. Towards the end of the volume are given the various enactments having any relation to the Local Boards, such as the Madras Elementary Education Act, the Madras Village Panchayat Act, the Indian Election Offences Act, etc. With such a mass of useful information we have no doubt that this work will be found invaluable to lawyers and others having to do with Local Self-Government in this Presidency.

DONOGH'S INDIAN STAMP ACT (Seventh Edition). Edited by Mr. K. J. Rustomji. Published by Messrs. Butterworth & Co. Price Rs. 12.

The late Mr. Donogh's Indian Stamp Law is a well-recognised treatise on the subject and does not need an intro-

duction to the lawyers in this country. It has already passed through six editions which is a singular feature among Indian legal text-books and the present is its seventh edition. Although there is no material change in the law on the subject, stamp duties have been increased practically throughout British India necessitating their being noted under the appropriate articles of the Act. It is a matter for congratulation that the editing of the work has fallen upon such a distinguished legal writer as Mr. Rustomji on the lamented death of the author in January last. Mr. Rustomji has included in this edition the decisions of the superior Courts other than the chartered High Courts, thus enhancing the usefulness of the work. We have therefore every reason to believe that this edition will be found to maintain the high level of usefulness of its predecessors.

THE LAW OF JOINT ACTS, ABETMENT AND CONSPIRACY, by Munindra Nath Ganguli, B. L., Pleader, Judge's Court, Howrah. Eastern Law House, Calcutta.

In recent years, the subject of joint acts, abetment and conspiracy in Criminal Law has assumed great importance and there was a real need for a book which dealt with the subject exhaustively. The author is to be congratulated on the thoroughness with which he has applied himself to the task. The whole case-law on the subject appearing in the various reports of this country is fully discussed and the result stated. We have little hesitation in commending the book to both the lawyer and the student.

GHOSH'S DIARIES, 1927. Published by Messrs. M. C. Sarkar & Sons, Law Booksellers and Publishers, 90|2A, Harrison Road, Calcutta.

Lawyer's Diary and Gem Diary have been sent to us for notice. The former contains much useful information that will interest lawyers, such as tables of Court-fees, stamp duties, the limitation schedule and a digest of recent case-law. The Gem Diary is a small day to a page diary, well suited for general use. The get-up of both diaries is excellent.

[END OF VOLUME LI.]